

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LARRY D. COLEMAN,)
Plaintiff,)
v.) Case No.)
MYRTLE HILLIARD DAVIS)
COMPREHENSIVE HEALTH)
CENTERS, INC.,)
TERESITA A. COMETA, M.D.,)
HENRY BRADFORD, D.P.M.,)
and,)
ST. LOUIS CONNECTCARE,)
Defendants.)

NOTICE OF REMOVAL

Defendants, Myrtle Hilliard Davis Comprehensive Health Centers, Inc., Teresita A. Cometa, M.D., and Henry Bradford, D.P.M., hereby give notice pursuant to 28 U.S.C. §§ 1446(a) & 1442(a)(1), as well as 28 U.S.C. §2679(d)(2), by and through their attorneys, Richard G. Callahan, United States Attorney for the Eastern District of Missouri, and Nicholas P. Llewellyn, Assistant United States Attorney for said District, that they are removing this action to the United States District Court for the Eastern District of Missouri, Eastern Division, on the following grounds:

1. Defendant Myrtle Hilliard Davis Comprehensive Health Centers, Inc., Teresita A. Cometa, M.D., Henry Bradford, D.P.M., and others, are named defendants in a civil action now pending in the Circuit Court of the City of St. Louis, State of Missouri, Cause No. 1022-CC00680.
2. The action in state court against Defendants Myrtle Hilliard Davis Comprehensive Health Centers, Inc., Teresita A. Cometa, M.D., Henry Bradford, D.P.M., and others, is a civil

Petition for medical malpractice alleging Defendants “failed to diagnose and treat increasing severe pain, swelling and discoloration in the lower extremities, legs, knees, ankles, feet and/or toes; . . . failed to diagnose and treat peripheral vascular disease; . . . failed to adequately treat diabetes; . . . failed to refer to a specialist; and/or failed to hospitalize Plaintiff.” See Plaintiff’s Petition, ¶ 11. Plaintiff Larry D. Coleman alleges the injuries he sustained are as follows: “ . . . had both of his legs amputated, required extensive hospitalization, confinement in a rehabilitation facility and extensive in home care, . . . has lost the ability to walk or move at all without a wheelchair; has endured great pain and suffering and emotional distress, and has lost the ability to work and enjoy life.” See Plaintiff’s Petition, ¶12.

4. Defendant Myrtle Hilliard Davis Comprehensive Health Centers, Inc., was deemed eligible for Federal Torts Claim Act coverage on January 1, 2008. *Gov’t Exh. A. (Deeming Letters dated November 6, 2007, and September 24, 2008).*

5. The United States Attorney has certified that Defendants Teresita M. Cometa, M.D. and Henry Bradford, D.P.M., were acting within the scope of their employment at the time of the incident out of which the suit arises, pursuant to the Federally Supported Health Centers Assistance Act of 1992, Pub. L.102-501. (See attached declaration of United States Attorney Richard G. Callahan.) Myrtle Hilliard Davis Comprehensive Health Centers, Inc. was deemed eligible for Federal Torts Claim Act coverage on January 1, 2008. Accordingly, Defendants Teresita M. Cometa, M.D. and Henry Bradford, D.P.M. are deemed to be U.S. Public Health Service employees covered by 42 U.S.C. §233(a) for acts and omissions that occurred after that date.

6. This Notice of Removal is brought pursuant to 28 U.S.C. § 1442(a)(1) and 28 U.S.C. §2679(d)(2). As set forth in 28 U.S.C. § 1442(a)(1), a civil action commenced in a state court

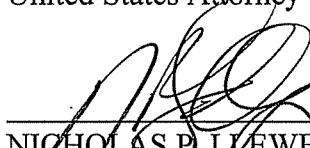
against the United States or "any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, sued in an individual capacity for any act under color of such office...", may be removed "to the district court of the United States for the district and division embracing the place wherein it is pending." 28 U.S.C. §2679(d)(2) provides for removal from state court "at any time before trial."

7. As required by 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders that have been served upon Defendants Myrtle Hilliard Davis Comprehensive Health Centers, Inc., Teresita A. Cometa, M.D. and Henry Bradford, D.P.M. are attached. In addition, Defendants have requested that the entire state court file, currently in the custody of the Circuit Clerk of St. Louis City, be copied and sent to Federal District Court.

WHEREFORE, this action, now pending in the Circuit Court of St. Louis City, State of Missouri, is removed to this Court.

Respectfully submitted,

RICHARD G. CALLAHAN
United States Attorney


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CERTIFICATE OF SERVICE

I certify that a copy of the *Notice of Removal* and *Notice of Filing of Notice of Removal* was sent via United States mail, postage prepaid, this 11th day of June, 2010 to:

Martin Louis Perron
Attorney at Law
275 N. Lindbergh Blvd.
St. Louis, MO 63141
Attorney for Plaintiff



NICHOLAS P. LLEWELLYN